

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-x-

UNITED STATES OF AMERICA,

S1 19 Cr. 91 (DLC)

- against -

HERLAND MONTANO-FERNANDEZ, et al.,

Defendant(s).

-x-

LETTER MOTION

(Request for Continuance of Sentencing)

The sentencing will proceed as
scheduled on 1/20/22.
Co-counsel Mr. Lynch may
assist if desired. Defense
submissions may be
submitted 1/13; Government's
submission is due 1/18.

Anthony L. Ricco
1/21/22

Attorney for Herland Montano Fernandez

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December 18, 2022

BY E.C.F.

Hon. Denise L. Cote
United States District Court Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *United States v. Herland Montano-Fernandez*, S13 19 Cr. 91 (DLC)

Dear Judge Cote:

This letter motion is submitted to request a continuance of sentencing in the above-referenced criminal matter, which is presently scheduled for sentencing on January 20, 2023. Defense counsel requests a continuance of 60 days, to a date in late March / early April 2023, which is convenient with the court.

Having appeared before your Honor in a number of criminal case throughout the years, counsel is very much aware that such requests are not ordinarily granted absent compelling circumstances, however, counsel is of the belief that present circumstances are compelling and warrant such relief.

For the past several months, counsel has been either actually engaged on trial, or actively engaged in preparation for trial in several criminal cases which have been scheduled to proceed to trial. On September 19, 2022, counsel began jury selection in *United States v. Jesus Feliciano Trinidad*, Docket No. 19 Cr. 152 (JS), in the Eastern District of Pennsylvania before Chief Judge Juan Sanchez, and I was engaged on trial until October 20, 2022. I represented the lead defendant, Jesus Feliciano-Trinidad, under the Criminal Justice Act, in a complex R.I.C.O./ narcotics conspiracy case,

which began as a death eligible case involving six murders. Due to the extended length and complexity of the Feliciano -Trinidad trial -- a case in which the government had intended to call more than 146 witnesses -- I actually lived in Philadelphia throughout the duration of the trial, and even caught Covid-19 during the trial, and participated, virtually, from my hotel room, for one week of trial. Upon the conclusion of the Feliciano-Trinidad trial, I drafted and filed two appellate briefs with the Second Circuit Court of Appeals, and another with the Supreme Court of the State of New York, Appellate Term for the 2nd, 11th and 13th Judicial Departments. Additionally, I was scheduled to begin a homicide trial in Bronx Supreme Court, in the matter of People v. David Marrero, Ind. No. 461/2022, which has since been postponed. Next, I was scheduled to begin another state court homicide trial in Ulster County Court, in People v. Christopher Baldner, Ind. No. 70235-21, a case involving a New York State Trooper charged in the death of a child who was killed when the car she was driving in lost control and crashed, after a high speed chase on the NYS Thruway. However, this trial, too, was postponed. Next, I am also scheduled to begin trial in Westchester County Court in the the matter of People v. Alika Crew, Ind. No. 20-0299, a case where the defendant - an orthodontist - is charged with stabbing her ex-fiance's new girlfriend. Finally, but most pressing, on February 6, 2022, I am scheduled to begin jury selection in the matter of *United States v. Mohamed*, a complex terrorism / hostage taking case in the Eastern District of New York, before the Hon. Allyne R. Ross, which is estimated to last four to six weeks; and which is likely going to require international travel to Mogadishu, Somalia between now and the start of trial.

In light of my recent trial schedule, as set forth above, I requests a continuance of at least 60 days, to a date in late March/early April 2023, except for Thursday mornings, which is convenient with the court, so that counsel may have adequate additional time to draft and file a sentencing recommendation on behalf of the defendant, Herland Montano-Fernandez.

The government has been informed of counsel's intention to file this letter motion, and does not have any objection.

Respectfully,

Anthony L. Ricco
Anthony L. Ricco

ALR/jh

cc: A.U.S.A. David Robles (By E.C.F.)
cc: A.U.S.A. Matthew Hellman (By E.C.F.)